WILLS — CONSTRUCTION — EXTRINSIC EVIDENCE OF LACK OF ANIMUS TESTANDI. — In proceedings for the probate of a will, the contestant introduced evidence tending to show that the testator executed the alleged will solely to induce certain relatives to believe that he had made a will in their favor, and without really intending that it should operate as his will. *Held*, that a verdict was properly directed for the proponent. *In re Kennedy's Will*, 124 N. W. 516 (Mich.).

Following strictly the accepted rule that a will must be executed with *animus testandi*, English courts admit extrinsic evidence showing testamentary intent where the instrument is ambiguous, and conversely allow proof of its absence though the instrument unequivocally purports to be a will. *Hixon* v. *Wytham*, 1 Ch. Cas. 248; *Lister* v. *Smith*, 3 Swab. & Tr. 282. The rule is analogous to that allowing proof by parol evidence that documents purporting to be contracts or deeds were not so intended. *Pym* v. *Campbell*, 6 E. & B. 370; *Gudgen* v. *Besset*, 6 E. & B. 986. So, too, American courts profess to require an actual *animus testandi* and allow it to be shown that the deceased did not understand the nature of the instrument signed. *Swett* v. *Boardman*, 1 Mass. 258. But to hold, as do several courts, that from the testator's knowledge of the purported meaning of the document which he signs, *animus testandi* is conclusively to be presumed, virtually dispenses with such a requirement. In support of this presumption it may be argued that while the English rule occasionally safeguards the wishes of one who has signed a formal document not intending it to operate as his will, it necessarily increases the possibility of overthrowing a genuine will by parol evidence. *Barnewall* v. *Murrell*, 108 Ala. 366.

WILLS — CONSTRUCTION — GIFT OF INCOME TILL MARRIAGE PASSES ABSOLUTE ESTATE — The testator devised a fund to trustees to pay the income thereof to his daughter until she should marry, with a gift over on marriage. The daughter died unmarried. *Held*, that the executor of the daughter is entitled to the *corpus* of the fund. *Mason* v. *Mason*, 101 L. T. R. 669 (Eng., Ch. D., Nov. 25, 1909).

A gift of the income of property, without limit as to time, is a gift of the capital, where no other disposition of the capital is made. *Phillips* v. *Chamberlaine*, 4 Ves. 51. It makes no difference whether the gift is made directly or through trustees. *Elton* v. *Shephard*, 1 Bro. Ch. 532. And that the gift of the income is subject to a conditional limitation does not prevent the legatee from having a vested interest in the capital. *Watkins* v. *Weston*, 3 De G. J. & S. 434. This was admitted in the principal case. The doubt was as to the extent of the legatee's interest. A gift to a woman "as long as she shall continue my widow and unmarried" passes only a life estate, for the widowhood must be determined by death. *In re Boddington*, 25 Ch. D. 685. See *Rishton* v. *Cobb*, 5 Myl. & C. 145, 152. Yet a gift of income to a married woman for her sole use has been held to give an absolute estate. *Haig* v. *Swiney*, 1 Sim. & St. 487. And so when a testator devises to his daughter until marriage, it seems reasonable to construe marriage as merely a contingency on which to determine an absolute gift. *In re Howard*, [1901] 1 Ch. 412. The daughter, having such an absolute interest in the principal case, and the happening of the divesting contingency being no longer possible, a conveyance to the executor was properly decreed. *Cavendish* v. *Lowther*, 3 Bro. P. C. 186; *Watts* v. *Turner*, 1 Russ. & M. 634.

WILLS — REVOCATION — PARTIAL REVOCATION. — Testator drew pencil marks through a clause of his will with the intention of revoking it, so that his wife, who was the residuary legatee, might take all. *Held*, that the revocation is valid and the revoked gift falls into the residue. *In re Frothingham's Will*, 74 Atl. 471 (N. J., Ct. App.). See NOTES, p. 558.